IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

AS.No. 272 of 1993(C)

OS.23/1987 of PRINCIPAL SUB COURT, PALAKKAD
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APPELLANT:

CHERIAN LUKOSE, S/O. CHERIAN, VETTIL HOUSE, VAKATHANAM, CHANGANACHERRY, KOTTAYAM DISTRICT. (DIED L.RS. IMPLEADED)

ADDL. APPELLANTS:

2. CHELLAMMA LUKOSE, W/O. LATE CHERIAN LUKOSE, VETTIL HOUSE, WOOD HOUSE GARDEN, CHILAVANNOOR ROAD, KADAVANTHRA P.O. KOCHI-20

3. SHERRY LUKOSE, S/O. LATE DO. DO.

4. RAVI LUKOSE, DO. DO.

(ADDL. APPELLANTS IMPLEADED AS PER ORDER DT.19.8.2004 ON C.M. APPL. NO. 1024/2004 AND I.A. NOS.2503/2004 AND 2504/2004)

BY ADV. SRI P.V.RAMA WARIYAR
SRI.R.RAMADAS

RESPONDENTS:
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1. KUNCHU ACHAN, ALIAS PALAKKAD SEKHARI VARMA VALIYARAJA, RESIDING AT AKETHETHARA AMSOM, PALAKKAD TALUK.

2. KUNCHAPPAN, S/O. NEELAKANDAN, NANKANADU VEEDU, KIZHACHIRAYARKARAYIL, EDAMUTTAM VILLAGE, MEENACHIL TALUK, KOTTAYAM DIST.

3. NARAYANAN, S/O. DO. DO.

4. SREEDHARAN, S/O. DO. DO.

5. CHELLAPPAN, S/O. DO. DO.

6. SIVAN, DO. DO.

7. SKARIA, S/O. A.O. CHERIAN, AYYARKUNNAM VILLAGE, ARAMANNUR,

KOTTAYAM.

8. UDUPPU, S/O. ANTHERIL KURUVILA, MANARKADU VILLAGE, THIRUVANCHURKARA, KOTTAYAM TALUK.

9. CHACKO, S/O. PADINJARE MUNDIKURUMEL MATHAN, DO.

10. NEELAKANDAN S/O. ILLIKKAL VEETTIL NEELAKANDAN, ARANATTUKARA, BHARANANGANAM VILLAGE, MEENACHIL TALUK, KOTTAYM DIST.

11. VELU, S/O. PULIYAMAKKAN VEETTIL UNDAN, DO.

12. NEELAKANDAN, S/O. VELAYUDHAN, RESIDING AT CHETTIPARAMBU, ARANATTUKARA, DO. DO.

13. HAJI MOOSA VANNAN ROWTHER, CHERUPURATH VEEDU, KANJIRAPPALLY TALUK.

14. N.E. ABDUL AZIZ, KARIYIL VEEDU, KANJIRAKARA VILLAGE, DO.

15. ASHARAF ALI, PARAKKAL VEEDU, KANJIRAPPALLYKARA, DO.

16. HAJI C.S., MOOSA VANNAN ROWTHER, CHERIPURATH VEEDU, DO.

17. P.G. RADHAKRISHNAN, S/O.GOPALAN, RESIDING AT MANUSMRITHI VEEDU, KARAMPUZHAKARA, KOTTAYAM VILLAGE, TKOTTAYAM TALUK,.

18. RAJAMA, W/O. K.M. SEKHARAN, MALAMPUZHA VILLAGE, KADUKKAMKUNNU AMSOM, PALAKKAD TALUK.

19. CHACKO, S/O. OUSEPH, ANAKKAL VEDIYIL ESTATE, MALAMPUZHA, KADUKKAMKUNNU AMSOM, PALAKKAD TALUK.

20. SARASU, W/O. CHELLAPPAN, NANDERI VEEDU, AKAMALAVARAM VEDIYIL ESTATE, MALAMPUZHA VILLAGE, DO.

21. THOMAS, S/O. CHACKO, AKAMALAYARAM VEDIYIL ESTATE, DO.

ADDL. 22: A.K. SUDHEER BABU, EXECUTIVE OFFICER, SREE EMOOR BHAGAVATHY DEVASWOM, KALLEKULANGARA P.O., PALAKKAD.

(ADDL. R22 IMPLEADED AS PER ORDER DT.16.2.98 ON CMP 960/98)

R1 & 22 BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.JOHN RAMESH K.I.JOHN
SRI.K.P.BALAGOPAL

THIS APPEAL SUITS HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kurian Joseph & T.R. Ramachandran Nair, JJ.

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A.S.NO.272 of 1993

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Dated this the 25th day of July, 2007

JUDGMENT

Kurian Joseph, J.

The appeal is filed against the judgment and decree in O.S. No.23/1987 on the file of the Sub Court, Palakkad. When the appeal came up for hearing, it is brought to the notice of this court that the property has already been delivered on 17.10.2000 and practically nothing survives in this appeal except with regard to the claim for mesne profits. We make it clear that in case the value of improvements as ordered in the judgment has already been deposited, the same shall be adjusted against the mesne profits as per the decree.

Subject to the above clarification, this appeal is dismissed.

(Kurian Joseph, Judge.)

(T.R. Ramachandran Nair, Judge.)

kav/

Kurian Joseph &
T.R. Ramachandran Nair, JJ.

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A.S.NO.272 of 1993

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JUDGMENT

25th day of July, 2007